

MOTION SEEKING PERMISSION

1. HIGH DESERT STATE PRISON
2. PO BOX 650
3. INDIAN SPRINGS, NV. 89070
4. JOSEPH MIZZONI #68549

FILED	RECEIVED
ENTERED	SERVED ON
COUNSEL PARTIES OF RECORD	
APR 13 2016	
CLERK U.S. DISTRICT COURT	
DISTRICT OF NEVADA	
BY: <i>[Signature]</i>	DEPUTY

6. IN THE UNITED STATES DISTRICT COURT
7. FOR THE DISTRICT OF NEVADA,

9. JOSEPH MIZZONI
10. Plaintiff
11. VS
12. [REDACTED] BACA et al
13. Defendants

CASE# 3:15-CV-00499-MMD-WGC

MOTION SEEKING PERMISSION TO
ADDRESS PLAINTIFFS FIRST AMENDED
COMPLAINT UNDER "NEW DISCOVERY"
"EVIDENCE", AND ADD DEFENDANT
NOX OFFICER JOHN HILL-SENIOR C/O
AND 3-28-15 PRELIMINARY HEARING
OFFICER

19 COMES NOW, Plaintiff Joseph Mizoni #68549 PRO-SE and
20 Respectfully ask the Court to " MOTION SEEKING PERMISSION"
21 above § 1983 CIVIL RIGHTS COMPLAINT PURSUANT TO 42 USC § 1983.

24 See; JOSEPH MIZZONI VS. WARDEN MR MCDANIEL, CASE# HG-0806011,
25 DEPT. I, "ORDER GRANTING IN PART AND DENYING IN PART PETITION
26 FOR WRIT OF HABEAS CORPUS" (PAGE 4 LINE 21 TO PAGE 5 LINE 1-12)
27 dated the 24th day of September, 2008.

STATEMENT OF FACTS IN SUPPORT I

1. (1) I am the Plaintiff Joseph Mizzoni #68549 Pro-se
2. and am requesting to file a "MOTION SEEKING PERMISSION".
3. See; Haines v. Kerner, 404 US 519, (1972) (Allegations of a pro-se
4. complaint are held to less stringent standards than formal pleadings
5. drafted by lawyers.

6.

7. (FACT 1.) Plaintiff filed his § 1983 on the 10th day of September, 2015.

8.

9. (FACT 2.) Plaintiff filed a MOTION SEEKING PERMISSION TO RECEIVE

10. EMERGENCY INJUNCTION FOR RELIEF UNDER FRCP 6d(b) AND

11. JUDICIAL NOTICE on the 21st day of February, 2016

12.

13. (FACT 3.) Plaintiff received a SCREENING ORDER on the 18th day of

14. March, 2016, and was ordered to do the following (1) To Proceed the

15. 14th Amendment due process claim against defendant Brennan. (2) Leave to

16. Amend on defendants C. Smith, Cox, WALSH McDANIEL, AND BACA.

17.

18. (FACT 4.) Plaintiff did Amend his Complaint against defendants C. Smith, Cox,

19. WALSH, MCDANIEL AND BACA, on the 1st day of March, 2016 give or

20. take in the 30 day time limit ordered by Court.

21.

22. (FACT 5.) Plaintiff just received some discovery evidence of officers reports,

23. witnesses, and disciplinary reports on case # 3:15-cv-00313-MMD-VAC

24. on a Motion called "DEFENDANTS OPPOSITION TO PLAINTIFFS 'MOTION

25. SEEKING PERMISSION TO RECEIVE EMERGENCY INJUNCTIVE RELIEF

26. FOR NECK INJURY BY DEFENDANTS AND ADD DEFENDANTS FOR

27. NON-MEDICAL TREATMENT" dated the 6th day of April, 2016. And on

28. this motion plaintiff discovered

STATEMENT OF FACTS IN SUPPORT I

1. That Senior NOOC OFFICER JOHN HILL was a big part of the
2. 3-28-15 Incident from start to finish on Defendants' MEZZONE 313:
3. DEF EXH A-003 Page 3 of 10 Report Detail and continued to DEF
4. EXH A-004 Page 4 of 10. Mr John Hill was Plaintiff's Preliminary
5. Hearing Officer and had first hand knowledge and was not impartial
6. to Plaintiff's disciplinary process of (NOOC) AR 707. On the Defendants
7. MEZZONE 313; DEF EXH A-003, it states: Staff Name HILL JOHN
8. responding Officer, Reports, Report Type INCO28, REPORT Detail - On
9. Saturday March 28, 2015, I Senior Officer J. Hill while ~~being~~ assigned
10. to Search and Escort at Northern Nevada Correctional Center did provide
11. assistance in unit four to secure cell doors at close of tier time. At
12. approximately 2045 hrs or 845am Officers Allison, Ardringer, S. Smith
13. did arrive in the unit 4. Shortly thereafter a radio transmission from
14. Unit 5 caused officer Allison to suggest a response to Unit 5.
15. Seconds later additional radio transmission requested "BACK UP" to unit 5.
16. Myself and the three other officers departed Unit 4 enroute to Unit 5.
17. Upon arrival Officers Allison, Ardringer, S. Smith, provided assistance to
18. Officer C. Smith while I began to disperse inmates from the immediate
19. area, clearing the rotunda and securing inmates in their cells. As additional
20. staff members arrived. The area was secured. I then observed the escort
21. of inmate Mizzoni #68549. from Unit 5 to unit 8 for medical evaluation.
22. Also Mr John Hill, plaintiff believes by his disorientation that Mr Hill
23. is who put plaintiff in a choke hold to start the dragging plaintiff backwards
24. from Unit 5 to Unit 8. There is a Security Camera in front of Unit 5 where he
25. or his partners did this. Also cameras standing on each side of Unit 5 wings
26. A and C outside, also outside Unit 4 same and Unit 8 outside and inside to
27. prove this in which plaintiff was denied at his Disciplinary Hearing on ~~5-1-15~~
28. 5-1-15.

STATEMENT OF FACTS EN SUPPORT I

1 Mr John Hill is not impartial and has First hand knowledge of the
 2 3-28-15 Disciplinary Report, ~~AR~~ DISCIPLINARY FORM E NOTICE OF
 3 CHARGES Page 1 of 1 date 4-4-15 Time of Services 0127 Printed name
 4 of hearing Officer J. Hill and signed and signature of Inmate, I signed.
 5 Also see; State of Nevada Department of Corrections DISCIPLINARY FORM 11
 6 SUMMARY OF HEARING OFFICERS INQUIRY AND DISPOSITION Page
 7 1 of 2 Name of Hearing Officer Hill, John Date 4-4-15 at time of
 8 0:127am Unit 7-B-62A and see; Page 2 of 2 Name of Hearing Officer
 9 Hill, John Date 4-4-15 Time: 01:27 AM Signature J. Hill myself
 10 signed below his name. See; AR 707 Page 3 of 38 DISCIPLINARY PROCESS-
 11 This term is intended to describe the collective steps necessary to resolve a
 12 violation, including the service of the "Notice of Charges" the Preliminary Hearing
 13 Officers Inquiry and Disposition, the Disciplinary Hearing, the "Appeal" (if any)
 14 and any incidental task such as referrals for sentence credit forfeiture and
 15 Parole revocation. See; AR 707 Page 4 of 38 PRELIMINARY HEARING
 16 OFFICER- An impartial Correctional employee who presents the written Notice
 17 of Charges to the accused inmate and advises the inmate of the
 18 procedures applicable under the Code. See; AR 707 Page 4 of 38
 19 707.01 DEPARTMENT POLICY 1.3 Disziplin should be applied in an
 20 impartial and consistent manner. See; AR 707 Page 5 of 38 1.9 • At least
 21 24 hours prior to any formal hearing before an impartial Disciplinary Hearing
 22 Officer a Notice of Charges will be served. See; AR 707.02 DISCIPLINARY
 23 PROCESS STRUCTURE 1.1 Pages 5 of 38 to 6 of 38. See; AR 707.04
 24 INMATE DISCIPLINARY PROCESS 1.1 to 1.1.3 Page 6 of 38 to 1.1.8.3 Page 8
 25 of 38. All Supervisors should be impartial in that they did not witness or
 26 investigate the alleged violation. • Were not a victim of the alleged violation.
 27 • Did not participate in the writing of the Notice of Charges. Did not sit as
 28 a

STATEMENT OF FACTS IN SUPPORT I

1. member of the classification committee, which authorized pre-disciplinary
 2. segregation for the same offense. • Were not the Preliminary Hearing
 3. Officer for the same offense. Finally See AR 707 Page 8 of 38 to Page
 4. 9 of 38, 1.2.1.1 As soon as practicable after receipt, an Impartial ~~Preliminary~~
 5. Preliminary Hearing Officer shall review the description of the incident and the
 6. violations, which are charged. See; AR 707 Page 10 of 38 to Page 12 of 38.
 7. Add Defendant John Hill (NDC) CAUSE OF ACTION. VIOLATION OF 8th and 14th Amend to USCA.

8. Plaintiff has shown that the Preliminary Hearing officer should be
 9. a defendant for his first hand knowledge, participation on Incident 3-28-15
 10. and his participation of being the Preliminary hearing Officer shows he was
 11. not impartial to Plaintiff's disciplinary hearing process and at this time
 12. Plaintiff respectfully under new evidence as of date of April 6, 2016
 13. as said in this motion that Mr Hill was in fact from start to
 14. finish a big part of plaintiff's disciplinary and sanctions to follow. He
 15. Violated Plaintiff's 14th Amendment to the USCA due process by "not"
 16. being partial to Plaintiff's Disciplinary Process per AR 707 (NDC) Disciplinary
 17. process for inmates and conspired to punish plaintiff to cruel and
 18. unusual punishment under the 8th Amendment to the USCA by participating
 19. in the 3-28-15 Incident from start to finish and he admits it. And
 20. he had first hand knowledge of the Disciplinary Report with C. Smith
 21. the reporting officer and participated in that and allowed plaintiff
 22. to be sanctioned knowing he was the Preliminary Hearing Officer and
 23. a participant to the false write up by C. Smith and apart of it.
 24. He knowing it still proceeded the write up, preliminary hearing, and
 25. Disciplinary Referral to have Plaintiff sanctioned to: 2 years in D/S.
 26. No store, no visits contacted, no appliances, loss of yard privileges on a
 27. minimum yard and moved to a max yard locked down 24/7, Loss of law library
 28. access on yard, Loss of culinary -5-

STATEMENT OF FACTS IN SUPPORT I

1. Loss of yard 3 times a week big yard, Bath Room, Gym, Choir practice
 2. Church, Coffeshop privileges, No restraints on hands and legs, Tear time
 3. outside cell, Showers every day, packages, and other amenities and
 4. privileges by medium yard standards and GP Prisoners alike and by him
 5. violating my 8th and 14th Amendment rights and conspiring and participating
 6. with all Defendants to convict me of a false Disciplinary by C. Smith
 7. and sanctions did in fact violate my 8th and 14th Amend to USEA.
 8. There fore Plaintiff shows good cause why Mr Hill should be added
 9. as a defendant to plaintiffs §1983 Civil Rights Complaint Pursuant to
 10. 42 USC §1983. He: Defendant MR JOHN HILL resides at NACC Prison, PO Box 2000
 11. Carson City, NV. 89701-2000. and is employed as Correctional Service Officer for
 12. (NDC) NACC. This defendant is sued in (his) individual and official capacity.
 13. capacity. The Defendant under Color of Law: Worked as a Senior Correctional
 14. Officer and participated in the 3-28-15 Incident which resulted into a
 15. Disciplinary Report by C. Smith and he participated and sat in as the
 16. Preliminary Hearing Officer 4-4-15 to punish Plaintiff at (NACC) for (NDC).
 17. This was a Harshship and atypical situation compared to O/S to GP (Relief same as Brannon)
 18. Plaintiff has also found newly discovered evidence of Mr. Robertson to add
 19. she was a participant of the 3-28-15 Incident from start to finish
 20. and then she sat in and was the Warden/Designee for plaintiffs
 21. Administrative Segregation Notice of Classification Hearing. See; Case #
 22. 3:15-cv-122313-MMD-VAC. DEPENDANTS OPPOSITION TO PLAINTIFFS

23. "MOTION SEEKING PERMISSION TO RECEIVE EMERGENCY INJUNCTIVE RELIEF
 24. FOR NECK INJURY BY DEFENDANTS AND ADD DEFENDANTS FOR NON-MEDICAL
 25. TREATMENT dated on the 6th day of April, 2016. EXHIBET B Page 000. she
 26. signed it.

27. And last newly discovered evidence Defendant Brannon, BACT, CoX all on
 28. a Nevada Dept. of Corrections -6-

I.STATEMENT OF FACTS IN SUPPORT E

1. Northern Nevada Correctional Center, Disciplinary Sanction Notification Form CP-707
 2. States the Following:

3. GREG COX ISEDRO BACA CP 707
 4. DIRECTOR WARDEN

5. Inmate: Mizzoni, Joseph NDOC # 68519

6. Date 5-1-15 Housing 7B-62A

7. Inmate Pled Guilty ☐ Not guilty ☒ OEC # 390034

8. Has been found guilty of violation of the Code of Penal Discipline and has
 9. received the following sanctions; [REDACTED]

10. Loss of Visiting All Visits From: _____ TO: _____

11. All Contact Visits From: _____ TO: _____

12. Visits with _____ From: _____ TO: _____

13. Loss of Canteen / Store From: _____ TO: _____

14. Loss of Phone From: _____ TO: _____

15. Loss of Yard Privilege From: _____ TO: _____

16. Loss of electrical appliances _____ Days ASAP Loss of Gym Privileges _____ Days ASAP

17. EXTRA DUTY YLC _____ hrs and/or Unit for _____ hrs

18. Restitution (\$ TBD)

19. Property loss/forfeiture: Return (E/m & DATE): _____

20. Sent out _____ Dispose _____

21. Institutional transfer: Recommended Institution: _____

22. STAT referral A X B _____ C _____

23. Panel Board / Attorney General referral _____ PB _____ AG (check if applicable)

24. Other (specify) 24 mos OS

25. Service / Hearing Officer Lt. Brannon

26. Above if the Court keeps Mr Brannon "only" sanctioned plaintiff (\$ TBD) restitution, Stat A
 27. referral and 24 months Disciplinary Sanctions. He didn't nor Director Cox or Warden Baca
 28. -7-

STATEMENT OF FACTS IN SUPPORT I

1 allow "any" sanctions or make "any" extra due process sanctions
 2 per OR 707: Loss of Visiting Contact, Loss of Canteen/store, Loss of Phone,
 3 Loss of Yard privileges, Loss of electrical appliances, Loss of Gym, Loss of
 4 EXTRA Duty, Property loss/forfeiture, Institutional Transfer, Parole Board/
 5 Attorney General referral; on this Form part of the Disciplinary
 6 Board Process. It is on the Defendants motion as said in MEZZONE 313: DEF
 7 EXIT-B-001 of that motion. Also on that motion shows MEZZONE 313: DEF
 8 EXIT-B-001, State of Nevada Department of Corrections, DISCIPLINARY FORM
 9 III SUMMARY OF DISCIPLINARY HEARING, Results of Disciplinary Hearing
 10 DS 24 months 05/01/2015 to 05/01/2017, RESTITUTION 05/01/2015 ALL RES
 11 Xar account will be frozen until the amount is determined and posted, STAT
 12 REF 05/01/2015 Recommended Category A. Now where does it say or is
 13 it on tape any of the sanctions above to be took with out due process
 14 to plaintiff. Plaintiff should be allowed all those sanctions back and
 15 damage awards for the time with out them, he proves it under this
 16 new amended evidence as of April 6, 2016. And it does show Defendants
 17 Director Cox and Warden BACA do have a say and part of the Disciplinary
 18 processes and sanctions to inmates under OR 707. Nooc. It is a Violation of the
 19 14th Amendment Due Process clause and is a liberty interest. Relief same as the other defendant

20 Brannen.

II. CONCLUSION

21 WHEREFORE Plaintiff Respectfully show good cause why he should be allowed
 22 to call John Hill Preliminary Hearing Officer to his 5/1983 and shows why his
 23 sanctions should be lifted and shows why Warden BACA and Director Cox should be allowed
 24 to Proceed under the 1st Amended Complaint because of newly Discovered evidence
 25 as of April 6, 2016. And Plaintiff does ask for all to be granted. EDC (b)(6).
 26

27 RESPECTFULLY SUBMITTED

28 This 14th day of April 2016

-8-

 BY: Joseph Mezzone #65549
 JOSEPH MEZZONE #65549

IIIAFFIDAVIT OF JOSEPH MIZIONE #68549 IN PROSE

1. STATE OF NEVADA)

2. SS

3. CLARK COUNTY)

4.

5. (1) Plaintiff sworn in support of the Motion duly and says;

6.

7. (2) Plaintiff in PRO-SE Joseph Mizione #68549 in support of this8. affidavit here for a "MOTION SEEKING PERMISSION TO ADDRESS9. PLAINTIFFS FIRST AMENDMENT COMPLAINT UNDER "NEW DISCOVERY"10. "EVIDENCE" AND ADD DEFENDANT NOX OFFICER JOHN HILL-SENIOR C/O11. AND 3-28-15 PRELIMINARY HEARING OFFICER" on his § 1983 IN12. THE UNITED STATES DISTRICT COURT DISTRICT OF NEVADA AND

13. does so in a truthful manner under 28 USC § 1746 and NRS laws

14. of perjury and penalty.

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RESPECTFULLY SUBMITTED

this 14th day of April 2016BY: Joseph Mizione
JOSEPH MIZIONE
#68549

IV.CERTIFICATE OF SERVICE BY U.S. MAIL

I Joseph Mirzoni #68549 hereby certify pursuant to 28 USC §1746 that on this 14 day of April 2016 I mailed a true correct copy of the foregoing "MOTION SEEKING PERMISSION TO ADDRESS PLAINTIFFS FIRST AMENDED COMPLAINT UNDER "NEW DISCOVERY" EVIDENCE" AND ADD DEFENDANT NDOC OFFICER JOHN HILL-SENIOR C/O AND 3-28-15 PRELIMINARY HEARING OFFICER" and by giving it to a prison guard at High Desert State Prison Buss Slip # 1703458 sealed and postage prepaid, and addressed to:

(1) CLERK, U.S. DISTRICT COURT

DISTRICT OF NEVADA

400 S. Virginia Street, Room #301

Reno, NEVADA, 89501

(2) OFFICE OF ATTORNEY GEN. NEV.

100 CARSON STREET

CARSON CITY, NV. 89701-4717

(3) Address of Plaintiff

Joseph Mirzoni #68549

High Desert State Prison

P.O. Box 650

Indian Springs, NV. 89400

RESPECTFULLY SUBMITTED

this 14th day of April 2016

BY: Joseph Mirzoni

JOSEPH MIRZONI

#68549